

REMARKS

Claims 1 – 4, 7, and 18 – 27 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the objections and rejections in view of the amendments and remarks contained herein.

IN THE CLAIMS

Claims 1, 7, 18, and 25 have been amended and support for the amendments can be found throughout the application as originally filed. Claims 9 – 15 have been withdrawn from consideration pursuant to an Election requirement and await disposition in accordance with MPEP § 809.02(c), pursuant to 37 C.F.R. § 1.141. Claim 27 has been added as Claim 17 re-presented in independent form. Claims 5, 6, 8, 16, and 17 have been cancelled without prejudice or disclaimer to the subject matter contained therein.

ALLOWABLE SUBJECT MATTER

Examiner has indicated that Claim 17 would be allowable if re-written in independent form. To that end, Applicant has cancelled Claims 16 and 17 without prejudice or disclaimer to subject contained therein and has re-presented Claim 17 as Claim 27 now in independent form. As such, Claim 27 should be in condition for allowance as the objection to the original Claim 17 has been accommodated.

Rejection under 35 U.S.C. § 102(b)

Claims 1 – 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lalikos (U.S. Pat. No. 5,143,409). This rejection is respectfully traversed.

Applicant notes the Examiner has stated, “[I]t is . . . considered inherent that upon making the article one would have to select a diameter and a pitch based on the diameter to form the article . . .” Applicant respectfully notes that in relying upon a theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flows from the teachings of the applied prior art. *Ex Parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in the original); MPEP § 2112. Applicant submits the Examiner has not established a basis in fact or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of Lalikos or Caplan (U.S. Pat. No. 3,050,087).

Applicant, arguendo, agrees that selection of a diameter and a pitch is inherent with regard to an item that has a diameter or a pitch; for example a duct has a diameter and reinforcement helix has a pitch. Applicant, however, respectfully submits that neither Caplan nor Lalikos appear to teach or suggest that the length of the end portion is equal to a pitch of the reinforcing helix, as set forth in amended Claim 1. Applicant, therefore, respectfully requests that the Examiner reconsider and withdraw the rejection of Claim 1 under 35 U.S.C. § 102(b). Applicant notes that Claims 2, 3, 4, and 7 depend from Claim 1 and should be allowable for reasons set forth for Claim 1 above.

Rejection under 35 U.S.C. § 103

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lalikos (U.S. Pat. No. 5,143,409) in view of Caplan (U.S. Pat. No. 3,050,087). This rejection is respectfully traversed. Applicant respectfully submits that Claim 7 is dependant from Claim 1 and, therefore, should be allowable for reasons set forth for Claim 1 above.

Claims 18, 20, 21 and 23 – 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Caplan (U.S. Pat. No. 3,050,087) in view of Sindars (U.S. Pat. No. 3,060,069). Claims 19 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Caplan (U.S. Pat. No. 3,050,087) in view of Sindars (U.S. Pat. No. 3,060,069), and further in view of Roberts (U.S. Pat. No. 3,076,737). Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Caplan (U.S. Pat. No. 3,050,087) in view of Sindars (U.S. Pat. No. 3,060,069), and further in view of Vohrer (U.S. Pat. No. 4,098,298). These rejections are respectfully traversed.

Applicant notes that the Examiner states that "Caplan discloses all of the recited method of assembly with the exception of forming the tube from three separate sections that are connected together to form the tube. The patent to Sindars discloses the recited method" Applicant, however, respectfully submits that neither Caplan nor Sindars appear to teach or suggest a clampless flexible fluid connection, as set forth in a portion of Claim 18, or that the flexible duct structure fluidly connects the first and second rigid duct structures, as set forth in a portion of Claim 25. Sindars, at best, disclose flexible pipe insulation connected to an outside of a pipe. Applicant respectfully

submits that connection of flexible pipe insulation to a flexible pipe, as it appears to be disclosed in Sindars, fails to teach the invention as claimed in Claims 18 and 25.

Applicant, therefore, respectfully requests that the Examiner reconsider and withdraw the rejection of Claim 18 and 25 under 35 U.S.C. § 103(a). Applicant notes that Claims 19 – 24 depend from Claim 2 and Claim 26 depends from Claim 25 and, as such, should be allowable for the reasons set forth for Claims 18 and 25 above.

C nclusi n

It is b lieved that all of the stated grounds of objection rejection have be n properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding objections and rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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